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Paper No. 2423

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In re Application of  
Roy Curtiss III et al  
Application No. 09/120,970  
Filed: February 26, 2003  
Attorney Docket No. 53116-1763

NOTICE

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OFFICE OF PETITIONS

CORRECTED DECISION ON NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998). The Notice mailed March 21, 2003 is hereby vacated.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 has not been accepted. Effective January 1, 2003, three (3) month extension of time is \$930.00. Therefore, an additional payment of \$50.00 is required.

Petitioner is given ONE MONTH NOT-EXTENDABLE time period from the date of this NOTICE to correct the deficiency under 37 CFR 1.28(b) to avoid the return of the fee deficiency paper, at the option of the Office.

Inquiries related to this communication should be directed to Wan Laymon at (703) 306-5685.

This file is being retained in the Office of Petitions for one month pending a response to this notice.

*Wan Laymon*

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Petitions Examiner  
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Office of the Deputy Commissioner  
for Patent Examination Policy